

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN GRANGER,

Plaintiff,

- against -

GILL ABSTRACT CORPORATION and NAN
GILL,

Defendants.

Civ. Action No. 07-CV-3491(PKC)

AFFIDAVIT OF SAL CIMAGLIA

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

Sal Cimaglia, being duly sworn, deposes and says:

1. I am the President of S.K. Consulting ("SK"), located at 4 Cregan Place, Monroe, New York 10950. I have personal knowledge of the facts set forth herein. I respectfully submit this affidavit in opposition to Plaintiff John Granger's ("Plaintiff" or "Granger") motion for summary judgment and in support of Defendant Nan Gill ("Gill") and Gill Abstract Corp.'s ("Abstract") (collectively "Defendants") cross motion for summary judgment.

2. I was contacted by Nan Gill of Abstract on or about February 19, 2006 concerning the creation of title rate insurance calculator and the replacement of an existing title rate insurance calculator. I immediately confirmed that I could provide such a calculator and on February 21, 2006 did in fact provide Nan Gill and Abstract with a title insurance rate calculator. See correspondence attached hereto as Exhibit "A."

3. This calculator was placed on Abstract's website with website address www.gillabstract.com on February 21, 2006. I checked Abstract's website myself and confirmed that the existing rate calculator had been removed and that it had been replaced with a new rate calculator.

4. I can confirm that since February 21, 2006, the only title insurance and mortgage rate calculator on Abstract's website is the title insurance calculator that I have provided. There is no other title insurance rate calculator in the website, and certainly no title insurance rate calculator belonging to the Plaintiff John Granger.

5. Attached hereto as Exhibit "B" are copies of bills rendered to Defendants from February 23, 2006, for the rate calculator I have provided all of which have been paid.

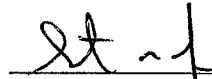
6. I have been told that Mr. Granger claims that his title insurance rate calculator was on Abstract's website until August, 2006. This is simply not true. I can confirm that Granger's title insurance rate calculator was removed from Abstract's Website on February 21, 2006 (See correspondence attached hereto as Exhibit "A") and replaced by a mortgage rate and title insurance calculator provided by myself.

7. In fact, attached hereto as Exhibit "C" is a printout showing the internet traffic browsing the calculator I provided, proving that the calculator I provided was up and running on Gill Abstract Corporations website on or about February 21, 2006.

8. Accordingly, it is undisputable that John Granger's title insurance rate calculator was removed from Abstract's website on or about February 21, 2006. Certainly his title insurance rate calculator was removed from Abstract's website well before June 30, 2006.

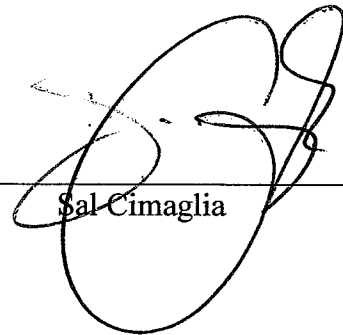
WHEREFORE, I respectfully request that the Court deny Plaintiff's motion for summary judgment with prejudice, and grant Defendants' cross motion for summary judgment and grant Defendants the fees and costs associated with the defense of the instant motion for summary judgment.

Sworn to before me on this
18 day of October 2007.



Notary Public

STEPHEN M. SPEDALIERE
Notary Public, State of New York
No. 02SP6037960
Qualified in Westchester County
Commission Expires February 28, 2010



Sal Cimaglia

Yahoo! Mail - drewdiskin@yahoo.com

http://us.f565.mail.yahoo.com/ym/ShowLetter?MsgId=702_0_54741_...

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under 1.5 yrs!This message is not flagged. [\[Flag Message - Mark as Unread \]](#)[Printable View](#)**From:** nangill@gillabstract.com [Add to Address Book](#) [Add Mobile Alert](#)**To:** SKCC@aol.com**CC:** drew@drewdiskin.com**Subject:** Re: Web Calculator for Gill Abstract**Date:** Mon, 20 Feb 2006 12:33:18 -0500

Thanks Sal,
Just let Drew know also so he can link it.
Nan

----- Original Message -----

From: SKCC@aol.com**To:** nangill@gillabstract.com**Cc:** drew@drewdiskin.com**Sent:** Monday, February 20, 2006 8:30 AM**Subject:** Re: Web Calculator for Gill Abstract

Nan

You will not be able to view what the calculator looks like till sometime tomorrow, Tuesday. I will email you when it is up, then you can look at it and let me know if you like it, then your programmer can link it immediately.

Thanks

Sal

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under 1.5 yrs!**This message is not flagged.** [\[Flag Message - Mark as Unread \]](#)[Printable View](#)**From:** nangill@gillabstract.com [Add to Address Book](#) [Add Mobile Alert](#)**To:** drew@drewdiskin.com**Subject:** Re: Fw: Web Calculator for Gill Abstract**Date:** Wed, 22 Feb 2006 02:53:41 -0500

Thank you

N

----- Original Message -----

From: <drew@drewdiskin.com>

To: <nangill@gillabstract.com>

Sent: Tuesday, February 21, 2006 9:50 PM

Subject: Re: Fw: Web Calculator for Gill Abstract

>

> Updated.

>

> Drew

>

>

>

>> Drew

>> Please get this one up as quickly as possible and the other one off.

>> Thank you,

>> Nan

>> ----- Original Message -----

>> From: SKCC@aol.com

>> To: nangill@gillabstract.com

>> Cc: drew@drewdiskin.com

>> Sent: Tuesday, February 21, 2006 1:25 PM

>> Subject: Re: Web Calculator for Gill Abstract

>>

>>

>> Nan/Drew

>> The link for the web calculator is up and running. You can now
connect

>> the URL which is

>> www accuratespda.gillabstract.swf to your website and it will work.

>> If any questions, call me at 914-760-0922

>> Tale care

Yahoo! Mail - drewdiskin@yahoo.com

http://us.f565.mail.yahoo.com/ym/ShowLetter?MsgId=8681_0_51726...

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SK Consulting**Accu-Rates****INVOICE**

4 Cregan Place
 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

INVOICE #: 5453
 DATE: February 23, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

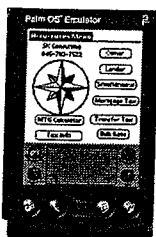
| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|--|--|------------|---|
| 1 | Accurates Website Software – Setup Fee | \$799.00 | \$799.00 |
| | \$35 per month Main. Fee | | |
| SUBTOTAL SALES TAX @ 08125% SHIPPING & HANDLING TOTAL DUE | | | \$799.00 \$64.91 N/C \$863.91 |

Make all checks payable to **SK Consulting**

If you have any questions concerning this invoice, contact **Sal Cimaglia, 845-783-7522, E-Mail: SKCC@AOL.COM**

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 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

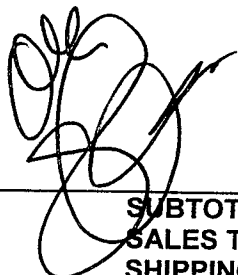
DATE: March, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|--|---------------------------------------|------------|----------------|
| 1 | March Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
|  | | | |
| SUBTOTAL | | | \$35.00 |
| SALES TAX @ 08125% | | | \$2.84 |
| SHIPPING & HANDLING | | | N/C |
| TOTAL DUE | | | \$37.84 |

Make all checks payable to **SK Consulting**If you have any questions concerning this invoice, contact **Sal Cimaglia, 845-783-7522, E-Mail: SKCC@AOL.COM****THANK YOU FOR YOUR BUSINESS!**

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4 Cregan Place
 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

DATE: April, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|---------------------|---------------------------------------|------------|---------|
| 1 | April Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
| SUBTOTAL | | | \$35.00 |
| SALES TAX @ 08125% | | | \$2.84 |
| SHIPPING & HANDLING | | | N/C |
| TOTAL DUE | | | \$37.84 |

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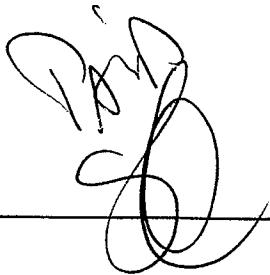
DATE: May, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|---|-------------------------------------|------------|----------------|
| 1 | May Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
|  | | | |
| SUBTOTAL | | | \$35.00 |
| SALES TAX @ 08125% | | | \$2.84 |
| SHIPPING & HANDLING | | | N/C |
| TOTAL DUE | | | \$37.84 |

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4 Cregan Place
 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

DATE: June, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|--|--------------------------------------|------------|--|
| 1 | June Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
| SUBTOTAL SALES TAX @ 08125% SHIPPING & HANDLING TOTAL DUE | | | \$35.00 \$2.84 N/C \$37.84 |

Make all checks payable to **SK Consulting**

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4 Cregan Place
 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

DATE: July, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|---------------------|--------------------------------------|------------|----------------|
| 1 | July Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
| SUBTOTAL | | | \$35.00 |
| SALES TAX @ 08125% | | | \$2.84 |
| SHIPPING & HANDLING | | | N/C |
| TOTAL DUE | | | \$37.84 |

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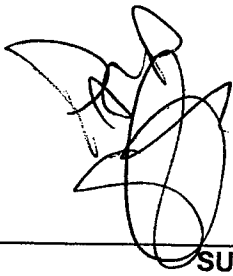
DATE: August, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|---|--|------------|----------------|
| 1 | August Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
|  | | | |
| | | | |
| | | | |
| | | | |
| SUBTOTAL | | | \$35.00 |
| SALES TAX @ 08125% | | | \$2.84 |
| SHIPPING & HANDLING | | | N/C |
| TOTAL DUE | | | \$37.84 |

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4 Cregan Place
 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

DATE: September, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|--|---|------------|--|
| 1 | September Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
| SUBTOTAL SALES TAX @ 08125% SHIPPING & HANDLING TOTAL DUE | | | \$35.00 \$2.84 N/C \$37.84 |

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4 Cregan Place
 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

DATE: October, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | Best Way | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|---------------------|---|------------|----------------|
| 1 | October Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
| SUBTOTAL | | | \$35.00 |
| SALES TAX @ 08125% | | | \$2.84 |
| SHIPPING & HANDLING | | | N/C |
| TOTAL DUE | | | \$37.84 |

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4 Cregan Place
 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

DATE: November, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

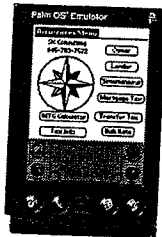
Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|---------------------|--|------------|---------|
| 1 | November Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
| SUBTOTAL | | | \$35.00 |
| SALES TAX @ 08125% | | | \$2.84 |
| SHIPPING & HANDLING | | | N/C |
| TOTAL DUE | | | \$37.84 |

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4 Cregan Place
 Monroe, New York 10950-9775
 Phone 845-783-SKCC (7522) E-Mail: SKCC@AOL.COM

DATE: December, 2006

Bill To:
 Name : Nan Gill
 Company : Gill Abstract Corp.
 Address : 222 Greenwich Ave.
 City, State ZIP : Goshen, NY 10924
 Phone :

Ship To:
 Name :
 Company :
 Address :
 City, State ZIP :
 Phone :

Comments or Special Instructions: None

| SALESPERSON | P.O. NUMBER | ORDERED BY | SHIP VIA | F.O.B. POINT | TERMS |
|--------------|-------------|------------|----------|--------------|----------------|
| Sal Cimaglia | | Nan Gill | | | Due on receipt |

| QUANTITY | DESCRIPTION | UNIT PRICE | AMOUNT |
|---------------------|--|------------|---------|
| 1 | December Monthly Website Maintenance Fee | \$35.00 | \$35.00 |
| SUBTOTAL | | | \$35.00 |
| SALES TAX @ 08125% | | | \$2.84 |
| SHIPPING & HANDLING | | | N/C |
| TOTAL DUE | | | \$37.84 |

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Traffic Report:

Gill Abstract

28 days

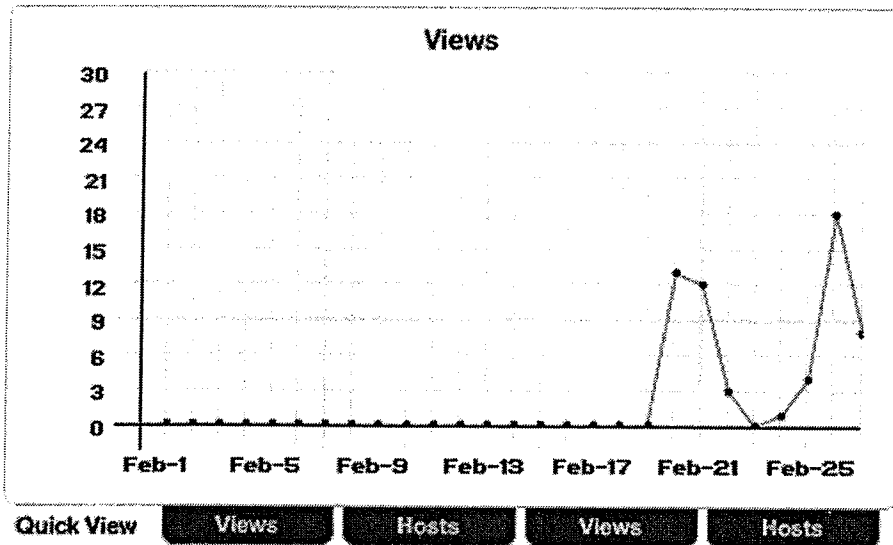
02/01/2006 → 02/28/2006

Report Start Date:

| | | | | | | |
|-----|----------------|-------|-----|-----|-----|-----|
| ? | February, 2006 | | | | | |
| « | ◀ | Today | | ▶ | » | |
| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
| | | | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | | | | |

Report End Date:

| | | | | | | |
|-----|----------------|-------|-----|-----|-----|-----|
| ? | February, 2006 | | | | | |
| « | < | Today | > | » | | |
| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
| | | | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | | | | |



| Date | Views (daily avg) | Hosts |
|---------------|-------------------|-------|
| February 2006 | 59 (2.11 / day) | 1 |
| 1 | 0 | 0 |
| 2 | 0 | 0 |
| 3 | 0 | 0 |
| 4 | 0 | 0 |
| 5 | 0 | 0 |
| 6 | 0 | 0 |
| 7 | 0 | 0 |
| 8 | 0 | 0 |
| 9 | 0 | 0 |
| 10 | 0 | 0 |
| 11 | 0 | 0 |
| 12 | 0 | 0 |
| 13 | 0 | 0 |
| 14 | 0 | 0 |
| 15 | 0 | 0 |
| 16 | 0 | 0 |
| 17 | 0 | 0 |

| | | |
|---------|----|---|
| 18 | 0 | 0 |
| 19 | 0 | 0 |
| 20 | 0 | 0 |
| 21 | 13 | 1 |
| 22 | 12 | 1 |
| 23 | 3 | 1 |
| 24 | 0 | 0 |
| 25 | 1 | 1 |
| 26 | 4 | 1 |
| 27 | 18 | 1 |
| 28 | 8 | 1 |
| Totals: | 59 | 1 |

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Traffic Report:

Gill Abstract

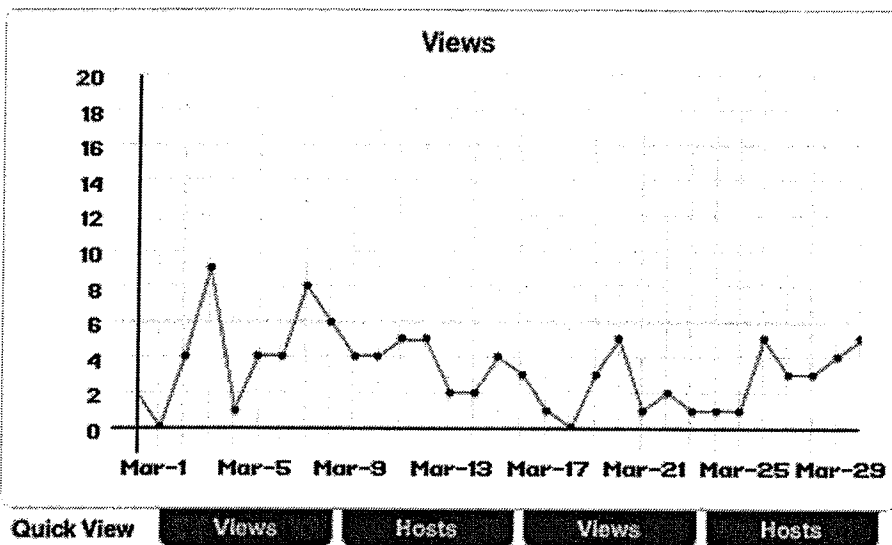
31 days
03/01/2006 → 03/31/2006

Report Start Date:

| | | | | | | |
|-----|-------------|-------|-----|-----|-----|-----|
| ? | March, 2006 | | | | | |
| « | ◀ | Today | | | ▶ | » |
| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
| | | | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | 31 | |

Report End Date:

| | | | | | | |
|-----|-------------|-------|-----|-----|-----|-----|
| ? | March, 2006 | | | | | |
| « | < | Today | > | » | | |
| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
| | | | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | 31 | |



| Date | Views (daily avg) | Hosts |
|------------|-------------------|-------|
| March 2006 | 102 (3.29 / day) | 1 |
| 1 | 2 | 1 |
| 2 | 0 | 0 |
| 3 | 4 | 1 |
| 4 | 9 | 1 |
| 5 | 1 | 1 |
| 6 | 4 | 1 |
| 7 | 4 | 1 |
| 8 | 8 | 1 |
| 9 | 6 | 1 |
| 10 | 4 | 1 |
| 11 | 4 | 1 |
| 12 | 5 | 1 |
| 13 | 5 | 1 |
| 14 | 2 | 1 |
| 15 | 2 | 1 |
| 16 | 4 | 1 |
| 17 | 3 | 1 |

| | | |
|----------------|-----|---|
| 18 | 1 | 1 |
| 19 | 0 | 0 |
| 20 | 3 | 1 |
| 21 | 5 | 1 |
| 22 | 1 | 1 |
| 23 | 2 | 1 |
| 24 | 1 | 1 |
| 25 | 1 | 1 |
| 26 | 1 | 1 |
| 27 | 5 | 1 |
| 28 | 3 | 1 |
| 29 | 3 | 1 |
| 30 | 4 | 1 |
| 31 | 5 | 1 |
| Totals: | 102 | 1 |

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